

## **REMARKS**

Applicant expresses appreciation to the Examiner for the courtesies extended during the recent interview held on October 17, 2007. Reconsideration and allowance for the above-identified application are now respectfully requested in view of the foregoing amendments and the following comments.

Claims 20, 22, 24-26, 28 and 30-50 are pending in the application, wherein claims 20 and 24 have been amended, claims 1-13, 16-19, 21, 23, 27 and 29 were cancelled, and new claims 30-50 were added in order for Applicant to more particularly claim what he regards as his invention.

During the Examiner Interview, a claim along the lines of new claim 46 was discussed. The Examiner agreed that such a claim appeared to distinguish over the art of record.

### **I. SUPPORT FOR AMENDMENT AND NEW CLAIMS**

Claim 20 was amended to recite a method exemplified by what is illustrated in Figures 3 and 4.

New claims 30-37 are derived from cancelled claims 1-9 and define inventions exemplified by embodiments which are illustrated Figures 6B, 7B, 8A-E, 9, 12-13, 15A-B, 16A-C, 17A-B and 18A-B.

New claims 38-45 are derived from cancelled claims 27, 11-13 and 16-19 and define inventions exemplified by embodiments which are illustrated Figures 7B, 8A-E, 9, 12-13, 15A-B, 16A-C and 17A-B.

New claims 46-49 are derived from cancelled claims 1-9 and 27 and define inventions exemplified by embodiments which are illustrated Figures 7B, 15A-B, 16A-C and 17A-B.

Finally, new claim 50 is derived from cancelled claim 1 and defines an invention exemplified by the embodiment illustrated in Figure 6A. Claim 50 differs from claim 30 with regard to the position of the second handle, as exemplified by comparing the position of handles 48 and 48' illustrated in Figures 6A and 6B, respectively.

### **II. PATENTABILITY OF THE CLAIMS**

The claims are believed to be patentable over the art of record as they include a combination of elements that are not taught or suggested in the art of record, whether taken singly or if combined.

**1. Claims 20, 22 and 24-26**

Claim 20 as amended claims a method of holding or restraining a child in a desired position while giving the child a bath comprising releasably attaching a restraint device to a torso of the child so that a handle is positioned at or near a central balancing plane of the child's body, gripping the handle with a first hand so as to hold or restrain the child in at least one of a sitting, standing or upright position within a container or basin of water, and washing the child with a second hand while gripping the handle with the first hand so as to maintain the child in at least one of a sitting, standing or upright position. Claim 20 defines a method that is neither taught nor suggested by the combined teachings of US 4,308,629 to Freemon and US 5,647,378 to Farnum.

Freemon discloses a device for use in helping a child learn to swim. Col. 1, lines 15-19. The hand grip 20 is gripped by an adult while a child is swimming (*i.e.*, is floating on the water surface). Col. 1, lines 15-19; *see* col. 3, lines 29-31. Freemon neither teaches nor suggest a method in which a person holds child in a sitting, standing or upright position within a container or basin of water using one hand while washing the child with the free hand.

Farnum discloses an invalid support belt for use in lifting an incapacitated person from a bed or wheelchair. Col. 1, lines 4-9. While Farnum states that "the belt can be submerged in water so that it can be worn when the patient is bathing", Farnum offers no teaching or suggestion as to which of the three handles 17, 18 or 20 of the invalid support belt a person might grip while the invalid bathes or that such gripping should be carried out with one hand while the free hand is used to bathe the invalid. Farnum, like Freemon, neither teaches nor suggest a method in which a person holds child in a sitting, standing or upright position within a container or basin of water using one hand while washing the child with the free hand. Nor does the Office Action show where Farnum teaches any such combination of acts. The combination of Freemon and Farnum therefore fails to teach or suggest the specific combination of limitations recited in claim 20 as amended. Claim 20 as amended is therefore unobvious over the combination of Freemon and Farnum.

Claims 22 and 24-26 recite additional limitations that further distinguish over the combination of Freemon and Farnum. For example, claim 24 recites the act of releasably attaching a second handle on a side of the child's body opposite the handle so that one of the handles is adjacent to the child's spine and another is adjacent to the child's sternum. Neither Freemon nor Farnum disclose attaching two handles on opposite sides of a child's body so that one of the handles is adjacent to the child's spine and another is adjacent to the child's sternum.

The Freemon device only includes one handle. The Farnum device includes three handles, one near the spine and two that lie under the invalid's shoulders. Thus, the combination of Freemon and Farnum fails to teach or suggest attaching two handles in the positions defined in claim 24.

## **2. Claims 30-37**

New claim 30 claims a restraint device comprising: a corset having an upper edge, a lower edge, and at least one strap having an underlying end and an overlapping end, means for releasably fastening the corset to a child's body so that the overlapping end of the strap overlaps the underlying end when the corset is wrapped around a child's body, a first handle attached to the corset approximately midway between the underlying end and overlapping end of the strap so as to be positioned on a central balancing plane that bisects a child's body into two halves when the corset is wrapped around a child's body, the first handle having a loop, at least a portion of which extends transversely between the upper and lower edges of the corset, and a second handle attached to the corset near the underlying end of the strap so as to be positioned on the central balancing plane on a side of a child's body opposite the first handle when the corset is wrapped around a child's body, the second handle having a loop, at least a portion of which extends transversely between the upper and lower edges of the corset and that is positioned so that the overlapping end of the strap passes through the loop of the second handle when the corset is wrapped around a child's body.

In rejecting claim 1, the Office Action acknowledges that Freemon does not teach or suggest a restraint device having the combination of elements recited in claim 1 as previously presented, including a pair of handles that are positioned so as to lie on opposite sides of a child's body along a central balancing place. The Office Action, however, argues that including two handles "is merely the duplication of a known element for a multiple effect to provide more surface area to hold on to the child." That assertion is incorrect, as the mere duplication of parts would not suggest to one of ordinary skill in the art where to position the second handle. If the desire is "to provide more surface area to hold on to the child" that could be satisfied by placing the second handle right next to the first handle. The mere duplication of parts would in no way suggest or motivate placing the second handle on the corset so as to be positioned on the opposite side of the child's body along the central balancing plane that bisects the child's body into two halves.

The Office Action further attempts to combine Freemon with Farnum, which discloses a pair of handles 17, 18 located beneath the patient's armpits and that extend entirely above an

upper edge of the invalid support belt. Due to the positioning of handles 17 and 18 in Farnum, Farnum *does not* suggest attaching a second handle to a restraint device so as to be positioned relative to the corset as required in claim 1 (*i.e.*, at least a portion of the loop of each handle extends transversely between the upper and lower edges of the corset). Nor does the combination of Freemon and Farnum teach or suggest positioning the second handle relative to a corset so that the overlapping end of the strap *passes through the loop of the second handle* when the corset is wrapped around a child's body use. It would require hindsight reconstruction, using the present application as a guide, to derive a child restraint device having the combination of features recited in claim 30. Applicants submit that new claim 30 is unobvious over the art of record.

New claims 31-37 include additional limitations that further distinguish over the applied art. For example, claim 34 defines a restraint device in which the first and second handles are positioned relative to the corset so that one of the handles lies over a child's spine and the other of the handles lies at or near the child's sternum. Neither Freemon nor Farnum teaches or suggests placing a handle "at or near the child's sternum during use". Nor is there any reasonable basis for arguing that selecting that particular position for placing a handle is "the mere duplication of parts."

Claim 36 defines a restraint device in which at least one of the first or second handles is a releasable handle comprising first and second handle straps, each having an end permanently attached to the corset and a free end, and attachment means for releasably joining the free ends of the first and second handle straps in order to selectively form a loop, at least a portion of which extends transversely between the upper and lower edges of the corset. Neither Freemon nor Farnum teach or suggest a releasable handle, let alone in the position required by claims 30 and 36. US 4,717,056 to Carmichael discloses an infant carrying pouch that includes adjustable length shoulder straps 36, 37 and adjustment buckle 38. Col. 4, lines 26-29. Shoulder straps are non-analogous to the handles shown in Freemon and Farnum such that one of skill in the art would not have consulted Carmichael when determining how to reasonably modify the Freemon nor Farnum devices. Shoulder straps and handles are used for different purposes. Adjusting the length of a shoulder strap depending on the person's shoulder size bears no logical relevance to hand grip 20 of Freemon or the handles of Farnum, none of which are shoulder straps.

Moreover, the Carmichael shoulder straps are also non-analogous to the invention of claim 36. The shoulder straps of Carmichael are not handles that extend transversely between upper and lower edges of a corset worn by a child but rather shoulder straps worn by a *parent*

attempting to hold a child wrapped within the Carmichael device. One of skill in the art could not have conjured up the invention of claim 36 by combining the "teachings of Freemon, Farnum and Carmichael absent the use of hindsight, using the present application as a guide. Whereas *KSR* modified the use of the so-called "teaching-suggestion-motivation" test, it did not overrule the rule in *Graham v. John Deere* forbidding the use of improper hindsight reconstruction of an invention by taking unrelated bits and pieces from different prior art references while ignoring other teachings that lead away from the invention. In any event, since the shoulder straps of Carmichael are not handles that extend transversely between upper and lower edges of a corset worn by a child, even if one were to incorporate the shoulder straps of Carmichael into the device of Freemon, one would not obtain the restraint device of claim 36. Accordingly, claim 36 is believed to be patentable over the combination of Freemon, Farnum and Carmichael.

### **3. Claims 38-45**

New claim 38 claims a restraint device comprising a corset, means for releasably fastening first and second ends of a corset strap together, and a releasable handle attached to the corset at a location between the first and second ends of the corset strap so as to be positioned on a central balancing plane that passes through a child's spine and sternum and bisects the child's body into left and right halves when the corset is wrapped around a child's body during use, the releasable handle comprising a first handle strap having a permanently attached end and a free end, the permanently attached end being attached to the corset so as to extend transversely between the center and upper edge of the corset, a second handle strap having a permanently attached end and a free end, the permanently attached end being attached to the corset so as to extend transversely between the center and lower edge of the corset, and attachment means, disposed on the first and second handle straps, for releasably attaching the free end of the first handle strap to the free end of the second handle strap in order to selectively form a loop, at least a portion of which extends transversely between the upper and lower edges of the corset.

As discussed above relative to claim 36, Carmicheal discloses an infant carrying apparatus that includes shoulder straps 36, 37 and buckle 38. Even if one were to somehow modify the Freemon device to include the shoulder straps 36, 37 and buckle 38 of Carmichael, the resulting device would not have any, let alone the following combination, of elements: (1) a releasable handle attached to the corset *at a location between the first and second ends of the corset strap* and comprising (2) a first handle strap having an end permanently attached to the corset so as to extend *transversely between the center and upper edge of the corset*, (3) a second

handle strap having an end permanently attached to the corset so as to extend *transversely between the center and lower edge of the corset*, and (4) attachment means, disposed on the first and second handle straps, for releasably attaching the free end of the first handle strap to the free end of the second handle strap in order to selectively form a loop, *at least a portion of which extends transversely between the upper and lower edges of the corset*. Accordingly, Applicant submits that claim 38 is patentable over the art of record.

New claims 39-45 include additional limitations that further distinguish over the applied art. For example, claim 43 defines a restraint device that further comprises a leash that is releasably attachable *to the free end* of at least one of the first or second handle straps when the first handle strap of the releasable handle *is detached from the second handle strap* (e.g., Figures 16C, 17A and 17B). While Freemon shows a leash attached to hand grip 20, hand grip 20 is not a "releasable handle" comprising first and second handle straps with free ends and attachment means, and wherein the leash is "attachable to the free end of at least one of the first or second handle straps when the first handle strap of the releasable handle is detached from the second handle strap". Nor is Applicant aware of any art that discloses or suggests a restraint device that includes a leash attachable to a releasable handling in the manner recited in claim 43. For example, both Freemon and Carmichael are utterly deficient in this regard.

Claim 44 further specifies that the leash is "releasably attachable to the free end of at least one of the first or second handle straps by engaging the attachment means disposed on the at least one of the first or second handle straps". Again, Applicant is unaware of any art that discloses or suggests a restraint device that includes a leash attachable to a releasable handling in the manner recited in claim 44. For example, both Freemon and Carmichael are utterly deficient in this regard.

Claim 45 defines a restraint device that further comprises a second handle attached to the corset so that the second handle is positioned on the central balancing plane on a side of a child's body opposite the releasable handle so that one handle is adjacent to a child's spine and the other handle is at or near the child's sternum when the corset is wrapped around a child's body during use. As discussed above, providing a pair of opposing handles that are positioned adjacent to a child's spine and sternum is not "the mere duplication of parts" as mere duplication does not warrant any assumption as to where one of ordinary skill in the art would position that second part. Moreover, neither Freemon nor Farnum, or the combination thereof, teach or suggest

placing a pair of handles on a corset so that the handles are positioned adjacent to a child's spine and sternum during use.

**4. Claims 46-49**

New claim 46 claims a restraint device comprising a corset, means for releasably fastening the corset to a child's body, a first handle attached to the corset approximately midway between the underlying end and overlapping end of the corset strap so as to be positioned on a central balancing plane that bisects a child's body into two halves during use, the first handle having a loop, at least a portion of which extends transversely between the upper and lower edges of the corset, and a releasable handle attached to the corset near the underlying end of the strap so as to be positioned on the central balancing plane on a side of a child's body opposite the first handle, the releasable handle being configured like the releasable handle of claim 45 and further being positioned on the corset so that the overlapping end of the corset strap passes through the loop of the releasable handle when the corset is wrapped around a child's body during use. Claim 46 therefore recites a combination of elements that essentially merge together features of claims 30 and 38 and is therefore patentable for at least some of the reasons given above relative to claims 30 and 38.

New claims 47-49 include additional limitations that further distinguish over the applied art. For example, claim 47 defines a restraint device in which the means for releasably fastening the corset to a child's body comprises a hook and loop system. New claim 48 defines a restraint device wherein the hook and loop system comprises an area of hooks on a first surface of the corset strap near one of the underlying or overlapping ends and an area of loops on an opposite surface of the corset strap near the other of the underlying or overlapping ends. Given the required structural and functional relationships between the releasable handle and the underlying end of the corset strap as recited in claim 46, there is no teaching or suggestion in the art for including a hook and loop system that also bears a specific structural relationship to a releasable handle and corset strap.

New claim 49 defines a restraint device that further comprises a leash *releasably attachable to the free end* of at least one of the first or second handle straps when *the first handle strap of the releasable handle is detached from the second handle strap*, the leash being releasably attachable to the free end of at least one of the first or second handle straps by *engaging the attachment means* disposed on the at least one of the first or second handle straps. As discussed above relative to claims 43 and 44, Applicant is unaware of any art that teaches or

suggests a restraint device having a releasable handle and leash that are connected in the manner recited in claim 49.

**5. Claim 50**

New claim 50 is similar to claim 30 but alternatively claims an embodiment as exemplified in Figure 6A (*i.e.*, a second handle that is positioned on a portion of the overlapping end of the strap that overlaps the underlying end when the corset is wrapped around a child's body during use). None of the art of record teaches or suggests a restraint device having the combination of features recited in claim 50, for example the second hand being positioned on the overlapping end of the strap that overlaps the underlying end when the corset is wrapped around a child's body during use. For at least this reason, Applicant submits that claim 50 is unobvious over the art of record.

**6. Claim 28**

Claim 28 is currently allowed over the art of record.

**III. CONCLUSION**

In conclusion, Applicant believes the application as amended is in allowable condition. In the event the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview or which may be overcome by examiner amendment, the Examiner is requested to contact the undersigned attorney.

Dated this 1<sup>st</sup> day of November 2007.

Respectfully submitted,



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